

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI
CIRCUIT JUDGE DIVISION

STATE OF MISSOURI, ex rel.)	
Attorney General Chris Koster,)	
)	
Plaintiff,)	
)	
vs.)	Case No.
)	
GRACE HOMES, LLC,)	
)	Division:
Serve Registered Agent :)	
National Registered Agents, Inc.)	
120 South Central Ave.)	
Clayton, MO 63105)	
)	
and)	
)	
GRACE HOMES RESTORATION, LLC,)	
)	
Serve Registered Agent :)	
National Registered Agents, Inc.)	
120 South Central Ave.)	
Clayton, MO 63105)	
)	
and)	
)	
BRANDT O. BENTLEY,)	
)	
Serve at:)	
1711 Rambler Inn Rd.)	
Jefferson, GA 30549)	
)	
Defendants.)	

PETITION FOR PRELIMINARY AND PERMANENT INJUNCTIONS,
RESTITUTION, CIVIL PENALTIES, AND OTHER COURT ORDERS

Plaintiff, State of Missouri, at the relation of Attorney General Chris Koster, brings this Petition for Preliminary and Permanent Injunctions, Restitution, Civil Penalties and Other Court Orders against Defendants, and, upon information and belief, states as follows:

Parties

1. Chris Koster is the duly elected, qualified and acting Attorney General of the State of Missouri and brings this action in his official capacity pursuant to statutory authority of the office of the Attorney General, including but not limited to Chapter 407, RSMo (as amended), and regulations promulgated thereunder.¹

2. Defendants Grace Homes, LLC, and Grace Homes Restoration, LLC, are active Georgia corporations registered with the Missouri Secretary of State to do business in Missouri. Their principal place of business is located at 1711 Rambler Inn Rd., Jefferson, GA 30549.

3. Their registered agent is National Registered Agents, Inc., 120 South Central Ave., Clayton, MO 63105.

4. Brandt O. Bentley is the organizer of Defendant Grace Homes, LLC. Defendant Bentley is a natural person who resides at 1711 Rambler Inn Rd., Jefferson, GA 30549. Defendant Bentley is being sued in his

¹All statutory references are to the Revised Statutes of Missouri (2012), as presently amended, unless otherwise indicated.

individual capacity.

5. Defendant Bentley is the general manager of both Defendant Grace Homes, LLC, and Defendant Grace Homes Restoration, LLC, and had direct control over the day-to-day operations of Defendants Grace Homes, LLC and Grace Homes Restoration, LLC. Defendant Bentley is individually liable for the violations of Chapter 407 alleged herein.

6. Defendants Grace Homes, LLC, Grace Homes Restoration, LLC, and Brandt O. Bentley (collectively, “Defendants”) have done business within the State of Missouri by advertising, marketing, soliciting, leasing or selling home repair and contracting services. Defendants have done business in the State of Missouri from the following addresses:

- a. 501 1st Capital Dr., Ste. 4, St. Charles, MO 63301; and
- b. 501 S. Madison Ave., Ste. L, Webb City, MO 64870.

7. All references to Defendants include acts individually, in concert, or by or through principals, officers, directors, members, employees, agents, representatives, affiliates, assignees and successors of Defendants.

Jurisdiction

8. This Court has subject matter jurisdiction and personal jurisdiction over the Defendant under Art. V, § 14 Mo. Const.

9. This Court has authority over this action pursuant to § 407.100, which allows the Attorney General to seek injunctive relief, restitution,

penalties, and other relief in circuit court against persons who violate § 407.020.

Venue

10. Venue is proper in this Court pursuant to § 407.100.7, which provides that “[a]ny action under this section may be brought in the county in which the defendant resides, in which the violation alleged to have been committed occurred, or in which the defendant has his principal place of business.”

11. Defendants advertised, marketed, solicited, or sold merchandise, including home repair and contracting services from at least one location in St. Charles County, Missouri, among other places, and has engaged in the acts, practices, methods, uses, and conduct described below that violate § 407.020.

The Missouri Merchandising Practices Act

12. Section 407.020 of the Merchandising Practices Act provides in pertinent part:

The act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in section 407.453, in or from the state of Missouri, is declared to be an unlawful practice.... Any act, use or employment declared unlawful by this subsection violates this subsection whether committed before,

during or after the sale, advertisement, or solicitation.

13. “Person” is defined as “any natural person or his legal representative, partnership, firm, for-profit or not-for-profit corporation, whether domestic or foreign, company, foundation, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof.” § 407.010(5).

14. “Merchandise” is defined as “any objects, wares, goods, commodities, intangibles, real estate, or services.” § 407.010(4).

15. “Sale” is defined as “any sale, lease, offer for sale or lease, or attempt to sell or lease merchandise for cash or on credit.” § 407.010(6).

16. “Trade” or “commerce” is defined as “the advertising, offering for sale, sale, or distribution, or any combination thereof, of any services and any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value wherever situated. The terms “trade” and “commerce” include any trade or commerce directly or indirectly affecting the people of this state.” § 407.010(7).

17. Defendants have advertised, marketed, and sold merchandise within the meaning of § 407.010.

18. Pursuant to authority granted in § 407.145, the Attorney General has promulgated rules explaining and defining terms utilized in §§ 407.010 to

407.145 of the Merchandising Practices Act. Said rules are contained in the Missouri Code of State Regulations (CSR). The rules relevant to Plaintiff's Merchandising Practices Act allegations include, but are not limited to, the provisions of 15 CSR 60-3.010 to 15 CSR 60-14.040. These rules are adopted and incorporated by reference.

Allegations of Fact Common to All Counts

19. During the Spring of 2012, severe storms damaged hundreds of homes in the St. Louis and St. Charles areas.

20. In the wake of these storms, Defendants advertised home repair, and specifically roof repair, services in areas hit by severe storms.

21. Defendants advertised their services by, among other methods, sending door-to-door representatives to sell their services to the owners of storm-damaged homes.

22. On at least five (5) occasions, Defendants contracted with Missouri homeowners to effect roof or other home repairs in 2012.

23. Defendants provided contracts for the work to be done to the homeowners, which included information about the type of repairs to be performed, the cost of those repairs, and the payment schedule.

24. These contracts generally required an initial payment of approximately one-third (1/3) of the total contract price before work would begin.

25. After the homeowners made, and Defendants accepted, the initial payment, Defendants would inform them of a general time-frame in which the work would begin.

26. Defendants would then fail to return to perform the promised work at all.

27. Defendants accepted at least \$17,345.85 from at least five (5) Missouri homeowners for whom Defendants failed to provide materials or services.

Consumer Examples

I. Sandy Ryan

28. On or about July 19, 2012, Defendants' representatives, going door-to-door, offered roof repairs to Sandy Ryan for her deceased mother's house, located at 9710 Corregidore, St. Louis, MO 63134.

29. On or about that same date, Ms. Ryan entered into a contract with Defendants for roof repairs and Defendants took full payment up-front in the amount of \$4,894.40.

30. Defendants repeatedly assured Ms. Ryan or her sister that the repairs would be completed.

31. Ms. Ryan eventually became aware that the office location given to her as the location for Grace Homes, LLC was vacant.

32. Ms. Ryan's roof was never repaired and Ms. Ryan lacks the funds

to hire another company to replace or repair the roof.

II. Gerry Ambrosecchia

33. In or around April 2012, Defendants contracted with Gerry Ambrosecchia to replace the hail-damaged roof on his home located at 11465 Essex Ave., Maryland Heights, MO 63043.

34. Defendants took an up-front payment from Mr. Ambrosecchia in the amount of \$2,768.71 and assured Mr. Ambrosecchia that the materials would be delivered in two weeks.

35. Despite that promise and despite leaving several messages for Defendants, Mr. Ambrosecchia never heard from Defendants again.

36. To date, Mr. Ambrosecchia's roof is unrepaired and his insurance company has ceased to cover his home, due to the failure to repair the roof.

Count I-False Promises
(Against all Defendants)

37. Plaintiff incorporates all of the allegations contained in paragraphs 1 through 36.

38. Defendants have engaged in methods, acts, uses and practices of false promises in connection with the sale of construction, remodeling and roofing services, in violation of § 407.020 RSMo., for reasons including, but not limited to, the following:

- a. Falsely promising to consumers that for an agreed-upon up-

front payment, Defendants would provide construction, remodeling and/or roofing services, which was false or misleading as to Defendants' intentions or ability to perform the promise or the likelihood the promise would be performed; and

- b. Falsely promising to consumers that Defendants would facilitate the delivery of materials and/or return to complete the promised services which was false or misleading as to Defendants' intentions or ability to perform the promise or the likelihood the promise would be performed.

Count II-Misrepresentation
(Against all Defendants)

39. Plaintiff incorporates all of the allegations contained in paragraphs 1 through 36.

40. Defendants have engaged in methods, acts, uses and practices of misrepresentation in connection with the sale of construction, remodeling and roofing services, in violation of § 407.020 RSMo., for reasons including, but not limited to, the following:

- a. Misrepresenting to consumers that for an agreed-upon up-front payment, Defendants would provide construction, remodeling and/or roofing services, when, in fact, they failed to

provide promised services; and

- b. Misrepresenting to consumers that Defendants would facilitate the delivery of materials and/or return to complete the promised services and failing to do so.

Count III-Unfair Practices and Fraud
(Against all Defendants)

1. Plaintiff incorporates all of the allegations contained in paragraphs 1 through 36.
2. The contracts provided by Defendants to homeowners were consumer contracts. The unambiguous terms of the contracts stated that in exchange for a down payment, Defendants would provide home repair services.
3. Defendants have engaged in unfair practices in violation of § 407.020 by unilaterally breaching unambiguous terms of consumer contracts, to wit: failing to perform work on homeowners' homes, despite receiving down payments, in violation of the consumers' contracts with Defendants.

Relief

WHEREFORE, Plaintiff prays this Court enter judgment:

1. Finding that Defendants have violated the provisions of § 407.020.

2. Issuing preliminary and permanent injunctions prohibiting and enjoining Defendants and their agents, servants, employees, representatives, and other individuals acting at their direction or on their behalf from:

- i. Performing, offering, advertising, soliciting, or selling any home repair or construction services in the State of Missouri, except to the extent necessary to complete work already paid for by Missouri homeowners;
- ii. Expending or otherwise disposing of any funds that Defendants received from Missouri homeowners as initial, up-front, or down payments for work that has not yet been completed.

3. Requiring Defendant, pursuant to § 407.100.4, to provide full restitution to all consumers who suffered any ascertainable loss.

4. Requiring Defendants, pursuant to § 407.100.6, to pay to the State a civil penalty in such amounts as allowed by law per violation of Chapter 407 that the Court finds to have occurred.

5. Requiring Defendants pursuant to § 407.140.3, to pay to the State an amount of money equal to ten percent (10%) of the total restitution ordered against Defendant, or such other amount as the Court deems fair and equitable.

6. Requiring Defendant, pursuant to § 407.130, to pay all court,

investigative, and prosecution costs of this case.

7. Granting any additional relief that is just or proper.

Respectfully submitted,
Chris Koster
Attorney General

/s/Sarah J. Garber
Sarah J. Garber, #61966
Assistant Attorney General
P.O. Box 861;
St. Louis, MO 63188
(314) 340-6816;
Fax: (314) 340-7957
Sarah.garber@ago.mo.gov